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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,114	12/29/2003	Carlos F. Vonderwalde	3141.002B	1742
23405 7590 12/22/2008 HESLIN ROTHENBERG FARLEY & MESTI PC 5 COLUMBIA CIRCLE ALBANY, NY 12203				
EXAMINER TYSON, MELANIE RUANO				
ART UNIT		PAPER NUMBER		
3773				
MAIL DATE		DELIVERY MODE		
12/22/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/748,114

**Applicant(s)**

VONDERWALDE ET AL.

**Examiner**

Melanie Tyson

**Art Unit**

3773

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 October 2008.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 66-70, 75, 76, 82 and 83 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 66-70, 75, 76, 82 and 83 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

This action is in response to the applicant's amendment received on 07 October 2008. Claims 1-65, 71-74, and 77-81 remain cancelled. New claims 82 and 83 have been added.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 66-70, 75, 76, 82, and 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nolting (6,099,559) in view of King et al. (5,192,311). Nolting discloses a stent assembly (see entire document) comprising an expandable tubular stent body (12), a tubular stent cover (22), and cover connectors (18 and 19) disposed at both ends of the stent body bent in an undulate fashion that includes a maxima of an undulation. Nolting disclose the cover connectors are joined to the stent body by fusion, welding, soldering, or any other suitable manner, thus fails to disclose the connectors

are integrally formed with the stent body and folded over the first and second ends of the cover.

King discloses a prosthesis (see entire document) comprising a tubular body (mesh material 61) and a cover (22). King teaches that securing the tubular body and cover together comprises folding the ends of the tubular body over the ends of the cover. It is well within the general knowledge of one having ordinary skill in the art to apply a known technique to a known device ready for improvement to yield predictable results. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to secure Nolting's stent body and cover by integrally forming the connectors with the stent body and folding the connectors over the cover ends in order to provide a simple connection between the cover and the stent.

Regarding claim 68, Nolting fails to disclose the stent cover is on the inner surface of the stent body. However, as the applicant failed to provide any criticality for this limitation, one skilled in the art would have found that providing the cover on the inside or outside surface of the stent body to be obvious alternative equivalents as the location of the cover would not affect the performance of the stent assembly.

Regarding claims 75 and 76, Nolting fails to disclose the cover is a rolled up sheet that has edges that substantially abut or overlap. However, as the applicant failed to provide any criticality for these limitations, one skilled in the art would have found that a tube and a rolled up sheet having abutting or overlapping edges to be obvious alternative equivalents as the form of the cover would not affect the performance of the stent assembly.

***Response to Arguments***

Applicant's arguments filed 07 October 2008 have been fully considered but they are not persuasive. The applicant argues that neither Nolting nor King teach "a first ring-shaped wall section defining said first stent end, wherein part of an end thereof is one of said bendable cover connectors folded over said first cover end." The applicant argues that Nolting fails to disclose bendable cover connectors as claimed, and it would not have been obvious to one having ordinary skill in the art at the time the invention was made to modify Nolting as taught by King, since King's tubular body comprises a mesh tube and not an expandable stent body. However, it is noted that some expandable stents are formed as mesh-like structures (for example, are woven or braided). Therefore, the Nolting and King references may be considered analogous. Regardless, it is the examiner's position that it is well within the general knowledge of one having ordinary skill in the art to apply a known technique to a known device ready for improvement to yield predictable results. King teaches that securing the tubular body and cover together comprises folding the ends of the tubular body over the ends of the cover. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to secure Nolting's stent body and cover by integrally forming the connectors with the stent body and folding the connectors over the cover ends in order to provide a simple connection between the cover and the stent.

The applicant further argues that woven mesh tubes are not bendable just as socks, for example, are not bendable. It is the examiner's position that a woven mesh

tube, including socks, are bendable. For example, the point at which the mesh tube is folded over curves to form a "bend."

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie Tyson whose telephone number is (571)272-9062. The examiner can normally be reached on Monday through Thursday 8:30-7 (max flex).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on (571) 272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie Tyson /M. T./  
Examiner, Art Unit 3773  
December 16, 2008

/(Jackie) Tan-Uyen T. Ho/  
Supervisory Patent Examiner, Art Unit 3773